Supreme Court, U.S.
FILED
061426 APR 12 2006
OFFICE OF THE CLERK

No.

In The

Supreme Court of the United States

Ex parte Addie L. Jackson, Petitioner

v.

Samuel Fisher, Wiggins, Childs, Quinn & Pantazis,LLC, et, al.,
Respondents

On Petition For Writ Of Certiorari To The Circuit Court Of
Jefferson County, Alabama Case No. 04 02133

PETITION FOR WRIT OF CERTIRORARI

ADDIE L. JACKSON, pro se
319 9th Court West
Birmingham, Al 35204
Home: (205) 326-3918
Cell: (205) 602-6544

QUESTION PRESENTED FOR REVIEW

Whether the trial court's, August 15, 2005, order to assign and attach exempt pension funds, without due process violates the indisputable constitutional rights, derived from a legislative statute?

Whether the trail court's, August 15, 2005, order and the court's procedure for summary judgment will open the way for all exempt pension funds to be assigned and attached at will without taking judicial notice?

Whether the appellate court erred in holding a state statute invalid and held the trial court's order to assign and attach exempt funds against state law valid?

LIST OF PARTIES

Ex parte Addie L. Jackson, Petitioner
Samual Fisher, an individual and has a part of a corporation, Wiggins, Childs, Quinn & Pantazisl, LLC, et, al, Respondents

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APPENDIX A: Civil Appeals Case No. 2041121
The Court of Civil Appeals affirmed the judgment, no opinion on March 17, 2006. A rehearing was filed on March 31, 2006 and overruled April 21, 2006.

May 11, 2006, the March 17, 2006, Certificate of Judgment was issued.

August 19 2006, under Rule 44(a)(d), ARAP, Petitioner filed Motion to Proceed With Appeal in the State of Alabama Court of Civil Appeals and the Alabama State Attorney General was served.

August 29, 2006, the State Attorney General's Acceptance and Waiver was filed in the Court of Civil Appeals.

September 5, 2006, Motion to Proceed was denied and rehearing filed September 19, 2006, overruled September 26, 2006.

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APPENDIX B: Jefferson Circuit Court No. CV 04-2133

Petitioner suffered a judgment in the Circuit Court of Jefferson CountyAlabama on August 15, 2005.

Additional statement of facts to support the question presented. Petitioner's affidavit, filed June 28, 2005, Record on Appeal, pages 146-161 and including September 11,2000, letter re: Section 18 Funds Exempt, Act 497 of the 1965 Alabama Legislature.

APPENDIX C: Supreme Court Of Alabama No. 1060108

January 12, 2007, denied petition for writ of certiorari.

October 10, 2006, petition for writ of certiorari was filed in the Supreme Court of Alabama.

No application for rehearing shall be received in the Supreme Court if the petition for writ of certiorari is denied, Rule 39(l),
ARAP.

Verbatim citation of Code of Alabama 1975 36-27-28.

TABLE OF AUTHORITIES

Act 479 of the 1965 Alabama Legislature. Section 18. Funds Exempt

Code of Alabama 1975 36-27-28

28 U. S. C. 2403(b)

Act 1935, N0. 355, p 777; Code 1940, T. 7 166 6-6-227 Persons to be made parties; rights to persons not parties

PETITION FOR WRIT CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the State Court of Civil Appeals appears at appendix
A and is: UNPUBLISHED

The opinion of the Supreme Court of Alabama appears at appendix C and is: UNPUBLISHED

JURISDICTION

A timely petition for r[illegible]ing was thereafter denied on the following date: January 12, 2007, and a copy of the order denying rehearing appears at Appendix A.

This jurisdiction of this court is invoked under 28 U.S.C 257 (a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The General Retirement System for Employees of Jefferson County is governed by Act 497 of the 1965 Alabama Legislature. Section 18. Funds Exempt and appears in Appendix B: September 11, 2000, letter.

Code of Alabama 1975 36-27-28 appears in Appendix C:

Supreme Court Rule 29(c):
28 U. S. C. 2403(b) may apply and shall be served on the Attorney General of that state. In such a proceeding from any court of the United States, as defined by 28 U. S. C. 451, the initial document also shall state whether that court pursuant to 28 U. S, C. 2403(b), certified to the State Attorney General the fact that the constitutionality of a statute of that state was drawn into question.

The court pursuant to 28 U.S.C. 2403(b) did not certified to the State Attorney General the fact that the constitutionality of a statute of the state of Alabama was drown into question.

STATEMENT OF THE CASE

Addie L. Jackson was terminated at age 59 and a half, seven months before retirement age and vesting, December 31, 1996. Jackson filed an EEOC wrongful termination case against Cooper Green Hospital. After the Right To Sue Letter was issued, Fisher turned the case into age discrimination only and filed in State Court.

A settlement was reached between Jackson and Cooper Green Hospital June 21, 2000. Jackson was allowed to retire August 16, 1997, and received seven months and sixteen days back pay, $35,599.00 minus deductions.

Jackson to date has not received any portion of her settlement or an accounting.

Fisher claims that he has a right to her pension and will not release any money unless Jackson signed her pension benefits over to him.

Jackson filed a lawsuit April 6, 2004. The trail court ruled against Jackson on a Motion for Summary Judgment August 15, 2005. In that order, the trial judge assigned and attached exempt pension funds to be paid to Fisher. The case was appealed, and now is before this court.

REASONS FOR GRANTING THE PETITION

The reason for granting the petition is that the appellate court held invalid a state statute and held valid the trail judge's August 15, 2005, order (Appendix B), to assign and attach exempt pension benefits against state laws Act 497 of the 1965 Alabama Legislature. Section 18. Funds Exempt(Appendix B), after the state statute was drawn into question, June 28, 2005 (petitioner's affidavit Appendix B). The trail court did not take Judicial Notice in compliance with Alabama rules of Civil Procedure Rule9(d), and violated the constitutional rights of all participants governed by the statute.

This is evidence that The Supreme Court Rule 10(a) is applicable, in that the appellate court has so far departed from accepted and usual course of judicial procedures, and sanctioned a departure by a lower court, as to call for the exercise of this Court's supervisory powers.

CONCLUSION

The petition for a writ of certiorari should be grante.

Respectfully Submitted,

Addie L. Jackson

Date: April 12, 2007

APPENDIX A

STATE OF ALABAMA – JUDICIAL DEPARTMENT
THE COURT OF CIVIL APPEALS
OCTOBER TERM, 2005-2006

2041121

Addie L. Jackson v. Samuel Fisher et al.
Appeal from Jefferson Circuit Court (CV-04-2133).

THOMPSON, Judge.

AFFIRMED. NO OPINION.

See Rule 53(a) (1) and (a) (2) (E), Ala. R. App. P.: Rule 4 (a) (5), Ala. R. App. P.; Rule 59(e), Ala. R. Civ p.; Rule 59.1, Ala R. Civ.P.; Green V. Ingram, 794 So. 2d 1070, 1072 (Ala. 2001); Adrews v. Merrit Oil Co., 612 So.2d 409. 410 (Ala. 1992);McLemore v. Fleming; 604 So.2d 353 (Ala. 1992); Spadlin v. Spradlin,, 601 So. 2d 76,79 (Ala. 1992); North Montgomery Materials, LLC V. Federal Ins. Co., 843 So. 2d 201. 203 (Ala. Civ. App.(2002); Bayed v. Gray, 835So. 2d 1034, 1037 (Ala. Civ. App. 2002); and Black v. Allen, 587 So. 2d 349 (Ala. Civ. App. 1991).

This case was transferred to this court by the supreme court, pursuant to 12-2-7 (6), Ala. Code 1975.

Crawley, PJ, and Pitman, Murdoch, and Bryan, JJ., Concur.

John H. Walkerton, Jr. Clerk of the Court of Civil Appeals of Alabama, do hereby certify the foregoing is a full, true and correct copy of the instruments(s) herewith set out as same appears of record in said court.

Witness my hand this 17th of March, 2006
Clerk, Court of Civil Appeals of Alabama

STATE OF ALABAMA
COURT OF CIVIL APPEALS

March 17, 2006

2041121
Addie L. Jackson v. Samuel Fisher et al. (Appeal from Jefferson Circuit Court: CV 04-2133)

Certificate of Judgment

The appeal in this cause having been duly submitted, IT IS CONSIDERED, ORDERED AND ADJUDGED that the judgment of the court below is affirmed.

IT IS FURTHER ORDERED that the costs of appeal are taxed against the appellants(s) and sureties as provided by Rule 35, Alabama Rules of Appellate Procedure.

Witness, John H. Walkerton, Jr., this 17th day of March, 2006.

John Walkerton, Jr
Clerk, Court of Civil Appeals

ISSUED May 11, 2006

STATE OF ALABAMA
COURT OF CIVIL APPEALS

John H. Walkerton, Jr.
Clerk

300 Dexter Avenue
Montgomery, AL
36104-3741

Ruby Crowe

Assistant Clerk

Phone(334) 242-4093

Fax (334) 242-4017

April 21, 2006

2041121
Addie L. Jackson v. Samuel Fisher et al. (Appeal from Jefferson Circuit Court: CV 04-2133)

You are hereby notified that the following was taken in the above cause, by the Court of Civil Appeals:

Application for Rehearing Overruled. No opinion written on rehearing.

John H. Walkerton, Jr.
Clerk, Court of Civil Appeals

STATE OF ALABAMA COURT OF CIVIL APPEALS

ADDIE JACKSON

APPELLANT,

VS. CASE NO.

SAMUEL FISHER, et al., 20411 21

APPELLEES.

MOTION TO PROCEED WITH APPEAL

Comes now the appellant, Addie Jackson and moves this Honorable
Court to process with the appeal.

Under Rule 44(a) If the validity of any statute, executive or administrative order, municipal ordinance, franchise or written directive of any governmental Officer, agent or body is raised in the appellant court, and the State...shall serve A copy of that party's written brief, which shall clearly set the question raised, On the attorney general, the city attorney, or the chief legal officer of the governmental body whose order is questioned.

The attorney general is being notified at this time.

Rule 44(a) states that ...the appellate court will not rule until the notice contemplated by this rule has been given to the appropriate governmental
Body and the said governmental body or chief legal officer has been given such opportunity to respond as shall be set by the court.

The constitutional question was raised by appellant in the brief and the Judges ruling on the pension,

Respectfully submitted

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a copy of the foregoing on opposing council by first class mail postage prepaid this 19th day of August, 2006.

_____

Addie Jackson, Pro Se
319-9th Court West
Birmingham, AL 35204
(205) 326-3918

STATE OF ALABAMA COURT OF CIVIL APPEALS

ADDIE JACKSON,	)	
	)	
Appellant,	)	
	)	
	)	
v.	)	**CASE NO. 2041121**
	)	
	)	
SAMUEL FISHER, et al,	)	
	)	
Appellee.	)	

ACCEPTANCE AND WAIVER

TROY KING, Attorney General of the State of Alabama, acknowledges service of the **Motion to Proceed with Appeal** in the above-styled cause pursuant to 6-6-227 *Code of Alabama,* 1975 (Attached). The Attorney General, having filed this Acceptance and Waiver in this action, hereby waives any further service upon him of any pleading, discovery and other matter filed in this cause and presently waives the right to be heard.

Respectfully submitted,

TROY KING,KIN047
ATTORNEY GENERAL

BILLINGTON M. GARRET,GAR029
ASSISTANT ATTORNEY GENERAL

6-6-227. Persons to be made parties; rights to persons not parties.

All persons shall be made parties, who have, or claim, any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance, or franchise, such municipality shall be made a party and shall be entitled to be heard; and if the statute, ordinance, or franchise is alleged to be unconstitutional, the Attorney General of the state shall also be served with a copy of the proceeding and be entitled to be heard. (Act 1935, No. 355, p. 777; Code1940, T.7. $ 166)

CERTIFICATE OF SERVICE

I hereby certify that I have this 29th day of August, 2006, served a copy of the foregoing by first-class United State Mail, prepaid and addressed upon the following:

Addie Jackson
319 9th Court West
Birmingham, Alabama 35204

_____

BILLINGTON M. GARRETT, GAR029

ASSISTANT ATTORNEY GENERAL

ADDRESS OF COUNSEL
Office of the Attorney General
Alabama State House
11 South Union Street
Montgomery, Alabama 36130-0152
334-242-7300
334-353-8235 (Fax)

STATE OF ALABAMA
COURT OF CIVIL APPEALS

John H. Walkerton, Jr.
Clerk

300 Dexter Avenue
Montgomery, Al 36104-3741

Rebecca C. Oates
Assistant Clerk

Phone(334) 242-4093
Fax (334) 242-4017

September 5, 2006

2041121
Addie L. Jackson v. Samuel Fisher et al. (Appeal from Jefferson Circuit Court: CV 04-2133)

You are hereby notified that the following action was taken in the above cause Appellant's motion to process with appeal is denied.

John H. Walkerton, Jr.
Clerk, Court of Civil Appeals

STATE OF ALABAMA
COURT OF CIVIL APPEALS

John H. Walkerton, Jr.
Clerk

300 Dexter Avenue
Montgomery, Al 36104-3741

Rebecca C. Oates
Assistant Clerk

Phone (334) 242-4093
Fax (334) 242-4017

September 26, 2006

2041121
Addie L. Jackson v. Samuel Fisher et al. (Appeal from Jefferson Circuit Court: CV 04-2133)

You are hereby notified that the following action was taken in the above cause Appellant's motion for rehearing overruled.

John H. Walkerton, Jr.
Clerk, Court of Civil Appeals

APPENDIX B

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
CIVIL DIVISION

ADDIE L. JACKSON,	)	
	)	
PLAINTIFF.	)	
	)	
v.	)	**CIVIL ACTION NUMBER:**
	)	**CV 04-2133 AEH**
	)	
SAMUEL FISHER, et al.,	)	
	)	
DEFENDANTS.	)	
	)	

ORDER

This matter is before the Court on two separate Motions For Summary Judgment. In the first Motion, all Defendants seek summary judgment with respect to all claims asserted by Plaintiff against all Defendants. In the second Motion, Defendants seeks Summary Judgment against Plaintiff on their counterclaim against Plaintiff for attorneys fee pursuant to a contingency fee contract between Plaintiff and Defendants.

Having conducted several hearings on these Motions, and having considered the briefs, evidentiary submissions and arguments of the parties, the Court determines as follow;

1) The Motion For Summary Judgment of all Defendants concerning all claims of Plaintiff is well founded and is hereby rendered in favor of all Defendants and against Plaintiff with regard to all claims asserted by Plaintiff.

2) With regard to Defendants'counterclaim against Plaintiff for attorneys fees, the evidence established that Plaintiff, by contract dated August 28, 1997, employed Defendants to represent her with regard to Plaintiff 's claims against Cooper Green Hospital and the Jefferson County Personnel Board. Pursuant to said representation, Defendants represented Plaintiff in a suit filed in Jefferson County against said parties, being Civil Action No. CV - 2991. That suit was settled by Plaintiff and a settlement agreemcnt dated June 21, 2000 was executed by Plaintiff and the Defendants therein detailing the terms of the settlement.

Under that settlement, Plaintiff received Thirtyfive Thousand Five Hundred Ninety Nine dollars and eighty cents ($35,599.80) for back pay compensation and an additional amount of Thirty Five Thousand Three Hundred Thirty Nine dollars ($35,339.00) for pension benefits owed to Plaintiff. However, because of certain deduction specified in the settlement agreement, the lump sum paid to Plaintiff under the settlement was Fifty Four Thousand Five Hundred Forty Eight dollars and forty one cents ($64,548.41).

For reasons not clear from the evidence, in paying the agreed settlement Jefferson County delivered one or more checks totaling $35,339.00 directly to Plaintiff and one or more checks totaling $19,209.41 directly to Defendants. The evidence established that

Plaintiff negotiated and retained the amounts sent to her by Jefferson County and the Defendants deposited the checks sent to them in their trust accounts.

The contingency fee contract between Plaintiff and Defendants, are determined by the Court, provides for a 50% contingent fee plus expenses. The evidence establishes Defendants incurred expenses in the amount of Six Thousand Two Hundred Nineteen dollars and twenty cents ($6,219.20) in their representation of Plaintiff. Pursuant to said contract between Plaintiff and Defendants have earned and are entitled to recover from Plaintiff the total sum of Thirty Three Thousand Four Hundred Ninety Three dollars and forty cents ($33,493.40). However, Plaintiff is entitled to a credit in the amount of $19,209.41 held in Defendants' trust account, said sum now declared to be the property of the Defendants. Therefore, the Court determines that Defendants' Motion For Summary Judgment on their counterclaim against Plaintiff is well taken and is hereby granted. Having given Plaintiff proper credit for the money held by Defendants in their trust account, judgment is hereby rendered in favor of Defendants and against Plaintiff in the amount of Fourteen Thousand Two Hundred Eighty Three dollars and ninety nine cents ($14,283.99) together with Court costs.

The Court further determines and holds that Defendants are not entitled to any attorneys fees on any pension benefits paid by Jefferson **County to Plaintiff that accrued after June 21, 2000.**

DONE and ORDERED this 15th day of August, 2005

ALLWIN E. HORN, III
Circuit Judge

AEH/KM
cc: All Attys/Parties of record.

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

ADDIE JACKSON

Plaintiff

vs. CASE NO.: CV04 02133

SAMUEL FISHER, GORDON, SILBERMAN, WIGGINS & CHILDS, P.C.

FILED IN OFFICE
JUNE 28, 2005
ANNE-MARIE ADAMS
Clerk

DEFENDANTS,

COUNTY OF JEFFERSON
STATE OF ALABAMA

AFFIDAVIT OF ADDIE JACKSON

My name is Addie L. Jackson, I am over the age of 19 years of age. I am a resident of Alabama. I have personal knowledge of the facts stated herein.

On December 17, 1996, Fisher and his firm began providing legal service for me as it relates to age discrimination and wrongful termination from my position as Imaging Chief.

August 28, 1997, I signed the contingency contract and elected to pay Attorney's fees on a contingency basis pursuant to agreement. (see copy of contract attached)

June 21, 2000, I signed Jefferson County's Settlement. See copy attached.

June 27, 2000, the County issued (2) checks to Fisher. The amount as follows:

1. Settlement check: Gross $35,599.80 - Net $18,458.49, payable to Addie L. Jackson and Samuel Fisher.

2. Replacement pay check for January 10, 1997: Gross $1,514.60 - Net $750.92 Check not part of settlement, paid tax on income for 1997.

3. July 27, 2000, Fisher informed me that funds were in the Firm's Trust Account and instructed me to see Cathy Crumley, Pension Coordinator when I was ready to apply for my pension. Pension is a separated entity. See Cathy's letter dated September 11, 2000.

4. August 4, 2000, I went to Fisher's office for the final accounting of the settlement proceeds. Fisher refused to give an accounting and release funds until I signed my pension check over to him. I refused based on the Act 497 of the 1965 Alabama legislature. See letter date September 11, 2000, attached.

5. Plaintiff denied settlement of $70,938.00. The pension and replacement check was not part of the settlement. The settlement was $35,599.80, paid by Jefferson County the only defendant in this case.

6. Defendant had full knowledge of the law and failed to take action as provided in the Ala. Code 34-3-62, Procedure when amount of compensation dispute. Instead, Defendant concealed the fact that the payable to was changed and replacement checks were issued. The checks were held for (14) months outside of the firm's trust fund before they were deposited.

7. The concealment was done with knowledge, intent and malice, creating a circumstance constituting fraud with the particularity required by Rule 9(b) of the Alabama Rule of Civil Procedure.

8. Defendant has not present any prior documents to establish that I was informed of the check replacement, payable to change and the holding of the checks outside of the trust fund for (14) months.

9. Plaintiff denies that defendant was holding checks waiting for me to come in for Final accounting. Defendant refused me and never responded to Attorney Marie's letter.

Addie Jackson
319 9th Ct. W.
Birmingham, Alabama 35204

Sworn to and subscribed before me on this 27th day of June, 2005.

THE GENERAL RETIREMENT SYSTEM
FOR EMPLOYEES OF JEFFERSON COUNTY
Suite 430 Courthouse
716 Richard Arlington Jr Blvd N
Birmingham, AL 35203
Telephone (205) 325-5354 FAX (205) 325-5054
Tom Fiddler, Chairman
Barry Stephens, Treasurer

Betty Lacier
Jean West
Linn Moore
Dwight Waldrop

September 11, 2000

Addie Jackson
319 9th Court West
Birmingham, AL 35204

Dear Ms. Jackson:

The General Retirement System for Employees of Jefferson County is governed by Act 497 of the 1965 Alabama Legislature. Section 18. Funds Exempt states as follows: No assets of the fund whether in cash, securities or otherwise, nor any income or yield thereof, shall be subject to or exacted on account of, any tax. No retirement or disability allowance or right to return to contributions, or other benefits payable under this Act, shall be assignable or be subject to execution, levy, attachment, garnishment or other legal process except for obligations to the County or to the Board of fund.

I hope this answers your questions, however, if I can be of any further assistance, please feel free to contact our office.

Your very truly,
Cathy Crumley
Pension Coordinator

CERTIFICATE OF COMPLETION OF SUPPLEMENTAL RECORD ON APPEAL BY TRIAL CLERK

ADDIE L. JACKSON

APPELLANT

VS.

SAMUEL FISHER ET AL

APPELLEE

TO: COURT OF CIVIL APPEALS

CIVIL ACTION NO. CV 2004-2133

2041121

SEPTEMBER 26TH, 2005
DATE OF NOTICE OF APPEAL

I certify that I have this done completed the supplemental record on appeal by assembling in a single volume of 16 pages the supplemental clerk's record and that the supplemental record on appeal will be made available to the parties for the preparation of briefs.

I certify that a copy of this certification has this date been mailed to counsel for each party to the appeal.

DATED this 10th day of January, 2006.

_____

CIRCUIT CLERK

CERTIFICATION OF COMPLETION OF SUPPLEMENT CLERK'S RECORD

ADDIE L. JACKSON

APPELLANT

VS.

SAMUEL FISHER ET AL

APPELLEE

TO: THE CLERK OF COURT OF CIVIL APPEALS OF ALABAMA

CIVIL ACTION NUMBER CV04-2133

2041121

SEPTEMBER 26TH , 2005
DATE OF NOTICE OF APPEAL

I certify that I have this date completed the supplemental clerk's record by making a photocopy of the necessary documents, and appropriate supplemental indices, All original paginations were removed; and all pages constituting the supplemental clerk's record are assembled chronologically in order of their filing by fastening at the left side; and all pages are numbered serially at the bottom of each page. A copy of this certificated appears as the last page of the supplemental clerk's record and the page number is affixed hereto.

I further certify that I have mailed a copy of this certificate of completion to counsel for each of the parties along with a copy of the supplemental index. The supplemental record on appeal will be assembled and made available first to counsel for appellant and then to counsel for appellee as an aid in the preparation of their respective briefs.

DATED this 10th day of January , 2006

_____

CIRCUIT CLERK

SUPPLEMENT INDEX

CV 2004-2133

2041121

MOTION TO SUPPLEMENT RECORD ON APPEAL AND ORDER OF "GRANTED" WITH ATTACHED DOCUMENTS 146-161

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APPENDIX C

IN THE SUPREME COURT OF ALABAMA

January 12, 2007

1060108

Ex parte Addie L. Jackson. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: Addie L. Jackson v. Samuel Fisher et al.) (Jefferson Circuit Court: CV 04-21-2133, Civil Appeals: 2041121).

CERTIFICATE OF JUDGMENT

Writ Denied

The above cause having been duly submitted, IT IS CONSIDERED AND ORDERED that the petition for writ of certiorari is denied.

SEE, J. - Nabers, C.J., and Harwood, Stuart, and Bolin, JJ., concur

I Robert G. Esdale, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that foregoing is a full, true and correct copy of the Instrument(s) herewith set out as same appear(s) of record in said Court.
Witness my hand this 12th day of January, 20007

Robert G. Esdale
Clerk, Supreme Court ofAlabama

SUPREME COURT OF ALABAMA

Robert G. Esdale
Clerk
Lynn Knight
Assistant Clerk

Office of the Clerk
300 Dexter Avenue
Montgomery, AL
36104-3741
(334) 242-4609

1060108

Ex parte Addie L. Jackson. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: Addie L. Jackson v. Samuel Fisher et al.) (Jefferson Circuit Court: CV 04-2133; Civil Appeals: 2041121).

NOTICE

You are hereby notified that your case has been docketed. Future correspondence should refer to above Supreme Court case number. The petition for writ of certiorari was filed with the Supreme Court on 10/10/2006.

VERBATIM CITATION

OF

CODE OF ALABAMA 1975 36-27-28

This right of a person to a pension, an annunity, a retirement allowance or to the return of contributions, the pension, annunity or retirement allowance itself and any optional benefit or any other right accrued or accruing to any person under the provisions of this article and the moneys in the various funds created by this chapter are hereby exempt form any state or municipal tax exempt form any state or municipal tax exempt form levy and sale, garnishment, attachment or any other process whatsoever and shall be unassignable except as in this article specifically otherwise provided.

71

(2)

No. 06-1426

FILED
OCT 26 2007
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In The

Supreme Court of the United States

EX PARTE ADDIE L. JACKSON,

Petitioner,

v.

SAMUEL FISHER, ET AL.,

Respondents.

On Petition For Writ Of Certiorari
To The Court Of Civil Appeals Of Alabama

PETITION FOR REHEARING

ADDIE L. JACKSON, pro se
319 9th Court West
Birmingham, AL 35204
Home: (205) 326-3918
Cell: (205) 602-6544

QUESTION PRESENTED

On the grounds of Constitutional law 92(1)(2)(3)(4) and its Equal Protection Clause, the question is whether, the Act 497 of the 1965 Alabama Legislature, Section 18, Funds Exempt is unconstitutional as applied to the petitioner? (*Ex parte Shirley Squires and Ronald Squires,* 960 So.2d 661 (2006)), (*Bratton v. City of Florence*, 688 So.2d 233 (1996)).

Whether, the trial courts acted arbitrarily or capriciously involved question of fact precluding summary judgment? (*Bratton v. City of Florence*, 688 So.2d 233 (1996)).

LIST OF PARTIES

Ex parte Addie L. Jackson, Petitioner

Samuel Fisher, an individual and has a part of corporation, Wiggins, Childs, Quinn & Pantazis, LLC, et al., Respondents

Dennis G. Pantazis, Counsel of Record for all Respondents

Solicitor General of the United States Department of Justice

Troy King, Attorney General of the State of Alabama

PETITION FOR REHEARING

Petitioner demands relief from judgment below.

OPINIONS BELOW

Judgment from the Jefferson County Alabama Circuit court's summary judgment order, August 15, 2005.

The Alabama Court of Civil Appeals, affirmed is UNPUBLISHED, March 17, 2006.

The Supreme Court of Alabama, denied, is UNPUBLISHED, January 12, 2007.

JURISDICTION

A timely petition for writ of certiorari was thereafter denied on the following date: October 1, 2007.

The jurisdiction of this court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitutional Law 92(1)(2)(3)(4)

The General Retirement System for Employees of Jefferson County is governed by Act 497 of the 1965 Alabama Legislature, section 18. Funds exempt. September 11, 2000, letter.

Code of Alabama 1975, 36-27-28

(Act 1935, No. 355 p. 777; Code 1940, T.7 166) Code of Alabama 1975 6-6-227. Persons to be made parties; rights to persons not parties.

Supreme Court Rule 29(c)

28 U.S.C. § 2403(b) may apply and shall be served on the Attorney General of that state. In such a proceeding from any court of the United States, as defined by 28 U.S.C. § 451, the initial document also shall state whether that court pursuant to 28 U.S.C. § 2403(b), certified to the State Attorney General the fact that the constitutionality of a statute of that state was drawn into question.

The court pursuant to 28 U.S.C. § 2403(b) did not certify to the State Attorney General the fact that the constitution of a statute of the State of Alabama was drawn into question.

Supreme Court Rule 29(b)

28 U.S.C. § 2403(a) may apply and shall be served on the Solicitor General of the United States,

Room 5614, Department of Justice, 950 Pennsylvania Ave., N.W., Washington, D.C. 20530-0001. In such a proceeding from any court of the United States, as defined by 28 U.S.C. § 451, the initial document also shall state whether that court, pursuant to 28 U.S.C. § 2406(a), certified to the Attorney General the fact that the constitutionality of an Act of Congress was drawn into question.

The Court pursuant to 28 U.S.C. § 2403(a) did not certify to the State Attorney General the fact that the constitutionality of an Act of Congress was drawn into question. Rule 10(a)(b).

STATEMENT OF THE CASE

On the grounds of constitutional law 92(1)(2)(3)(4). The following statement of case to be considered in support of rehearing.

Petitioner applied for pension benefits August 4, 2000. The trial court's order includes benefits up to and including June 21, 2000, retirement is a separate legal entity. The trial court ordered judgment before genuine issues of facts were clear and negated the individual judicial scrutiny, is indicative of arbitrary and capricious action. *Bratton v. City of Florence*, 688 So.2d 233 (1996). Ala. R. Civ. P. R. 9(d).

Accordingly, since the trial court ruled on the wrong facts, before genuine issues of material facts were determined, is questionable as to whether

Respondents were entitled to summary judgment as a matter of law. Ala. R. Civ. P. Rule 56(c), *Bratton v. City of Florence*, 688 So.2d 233 (1996).

The Respondents have taken unfair advantage through delay, false language, false representation and concealment, holding settlement checks outside of the client fund for 14 months, calculating retirement benefits as settlement and most recently in this court, filed July 20, 2007, letter attached to waive as brief in opposition is a violation of Rule 15(3)(4), in that letter, paragraph 4, page 2, settlement checks were sent to petitioner, false language. Respondents conduct has prevented clarity or material facts throughout the case. The original checks issued June 27, 2000, were reissued April 2, 2001, deposited September 5, 2001, (ROA p. 36, 37, 47, 48) without my knowledge or consent. On July 27, 2000, Respondents stated the checks were in the client's fund. To date, Respondent has been holding my share of the settlement and my replacement pay check for seven years (*see* July 31, 2000). *Bratton v. City of Florence*, 668 So.2d 233 (1996).

REASON FOR GRANTING PETITION FOR REHEARING

On the grounds of Constitutional Law 92(1)(2)(3)(4) and its Equal Protection Clause, Petitioner demands that the Petition for Rehearing, Writ of Mandamus and Prohibition be granted relief from trial court's

summary judgment and the case reversed and remanded. (*Bratton v. City of Florence*, 688 So.2d 233 (1996)), (*Ex parte Shirley Squires and Ronald Squires v. City of Saraland*, 960 So.2d 661 (2006)).

Petitioner is in aid of this Court's appellate jurisdiction, exceptional circumstances warrant the exercise of the Court's discretionary powers and adequate relief cannot be obtained in any other form or any other court because of time barred. Rule 10(a)(b); 28 U.S.C. § 1257(a).

CONCLUSION

On the grounds of Constitutional Law 92(1)(2)(3)(4), Petitioner demands Rehearing be granted and the case reversed and remanded.

Respectfully submitted,

ADDIE L. JACKSON

Date: October 26, 2007

CERTIFICATE OF COUNSEL

I hereby certify that this Petition for Rehearing is submitted in good faith and not for delay. This Petition for Rehearing is restricted to the grounds set out in Rule 44.2.

ADDIE L. JACKSON